UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

El Paso Electric Company	)	**Docket No. ER21-2497-000**

MOTION FOR LEAVE TO ANSWER AND ANSWER OF EL PASO ELECTRIC COMPANY

In accordance with Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), El Paso Electric Company ("EPE") hereby files this Motion for Leave to Answer and Answer ("Answer") in response to the Protest of Solar PV Development NM 18 II LLC ("Solar PV") (the "Protest") filed on August 13, 2021, in the above-captioned docket. The Protest was filed in response to EPE's July 23, 2021 filing of an unexecuted Large Generator Interconnection Agreement ("LGIA"). As discussed further below, the LGIA provides for specifications necessary for the safe and reliable interconnection of Solar PV's proposed non-synchronous[1] Large Generating Facility to EPE's transmission system at Solar PV's desired location.

I. MOTION FOR LEAVE TO ANSWER

While generally an answer to a protest is not permitted, EPE respectfully requests leave to file this Answer and asks that the Commission consider EPE's Answer.[2] The Commission permits

[1] Non-synchronous generators are also referred to as "inverter-based resources."

[2] The Commission permits answers that would otherwise be prohibited where the reply would assure a complete record in the proceeding or assists the Commission in its decision-making process; New Fortress Energy, LLC, 174 FERC ¶ 61,207, at P 7 (2021) ("The Commission's Rules of Practice and Procedure do not permit answers to protests or answers to answers; however, we find good cause to waive our rules and accept the answers because they provide information that has assisted in our decision-making process."); SunEnergy 1, LLC, 176 FERC ¶ 61,004, at P 41 (2021) ("We accept SunEnergy's answer because it has provided information that assisted us in our decision-making process."); Saltville Gas Storage Co, L.L.C., 164 FERC ¶ 61,212 (2018) ("the Commission finds good cause

an answer when it provides useful and relevant information that will assist the Commission in the decision-making process, or where the answer will clarify the issues before the Commission.[3] This Answer satisfies those criteria. The Answer will assure a more complete record and will otherwise assist the Commission in reviewing the issues raised in this proceeding. Accordingly, good cause exists for the Commission to grant this motion for leave to file this Answer.

II. ANSWER

1. Non-conforming provisions are necessary for this particular interconnection request.

The Protest claims that the non-conforming provisions have not been shown by EPE to satisfy the Commission's burden of proof.[4] To the contrary, and consistent with the Commission's pronouncements on how it will review non-conforming provisions, EPE's July 23, 2021 filing: (1) referenced each location within the LGIA that contains non-conforming text; (2) provided an explanation of the need for those specific provisions; and (3) addressed how the presence of those provisions satisfies the standards of review applied by the Commission in recent proceedings.[5]

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to accept Saltville's answer because it will not delay the proceeding, will assist the Commission in understanding the issues raised, and will ensure a complete record"); provide information helpful to the disposition of an issue; Columbia Gas Transmission, LLC, 146 FERC ¶ 61,232 (2014) ("While the Commission's Rules of Practice and Procedure generally prohibit answers to protests or answers, … the Commission will accept Columbia's answer to aid in the disposition of the issues"); or permit the issues to be narrowed or clarified; Algonquin Gas Transmission, LLC, 166 FERC ¶ 61,012 (2019) ("we will accept Algonquin's answers because they clarify the concerns raised").

[3] See, e.g., PJM Interconnection, L.L.C., 176 FERC ¶ 61,003, at P 24 (2021) ("We accept the answers filed by PJM and the Market Monitor because they provide information that has assisted us in our decision-making process."); Alaska Gasline Development Corp., 171 FERC ¶ 61,134, at P 7 (2020) ("Although the Commission's Rules of Practice and Procedure do not permit answers to protests, we will accept the answers herein because they clarify the concerns raised and provide information that has assisted in our decision making").

[4] Protest at 5-6.

[5] The provisions comport with the standard applied last year by the Commission in a case involving the Southwest Power Pool. In that case, the Commission stated that a non-conforming generator interconnection agreement should address "specific reliability concerns, novel legal issues or other unique factors." Southwest Power Pool, Inc., 172 FERC ¶ 61,170 at P 22 (2020). This summer, in a docket involving EPE and the same generation developer as the one here, Galehead Development, the Commission applied a standard it characterized as the "necessary" standard. El Paso Electric Co., 75 FERC ¶ 61,199 (2021).

EPE's July 23, 2021 filing explained that the non-conforming changes to the LGIA are driven by a North American Electric Reliability Corporation ("NERC") industry guideline[6] regarding inverter-based generation.[7] NERC, as the Commission-certified Electric Reliability Organization is responsible for the reliability of the Bulk Electric System ("BES") and has a suite of tools to accomplish this responsibility, including but not limited to the following: lessons learned; reliability and security guidelines; assessments and reports; the Event Analysis program; the Compliance Monitoring and Enforcement Program; and Reliability Standards. It is in the public interest for NERC to develop guidelines that are useful for maintaining or enhancing the reliability of the BES. EPE, as a NERC-Registered Entity, is responsible and accountable for maintaining reliability of their portion of the BES.

The NERC Guideline was prepared in coordination between NERC Staff and the NERC Technical Committees. The NERC Guideline, which drives the non-conforming changes of the LGIA, represents the collective experience, expertise, and judgment of the industry. The NERC Guideline provides a set of recommended performance specifications for inverter-based resources, such as Solar PV's proposed Large Generating Facility. Furthermore, the NERC Guideline provides recommended steady-state and dynamic performance characteristics for inverter-based resources and also covers a wide range of related aspects from protective functions to monitoring capability.

As a result of the ongoing analyses of large Bulk Power System ("BPS") disturbances in the Western Interconnection involving inverter-based resources, particularly solar photovoltaic

[6] See "Reliability Guideline, Improvements to Interconnection Requirements for BPS-Connected Inverter-Based Resources" dated September 2019, making improvements to a previous guideline. It is available online at https://www.nerc.com/PC_Reliability_Guidelines_DL/Reliability_Guideline_IBR_Interconnection_Requirements_Improvements.pdf. The guideline is referred to herein as the "NERC Guideline."

[7] EPE's July 23, 2021 filing at 2 and 3. Non-synchronous generators are also referred to as "inverter-based resources."

resources, NERC developed recommended performance specifications for BPS-connected inverter-based resources during steady-state and dynamic system conditions. Appendix G to the LGIA includes requirements to address the primary reliability issues identified in the NERC Guideline. The primary reliability issues identified in the NERC Guideline are:

- Inverters tripping on instantaneous frequency measurements;
- Momentary cessation of current injection outside the continuous operating range around 0.9–1.1 pu;
- Use of momentary cessation as a form of ride-through;
- Many inverter protective controls were set to trip for instantaneous voltage over 1.2 pu, using an unfiltered measurement;
- Plant tripping on phase lock loop synchronization; and
- Transient overvoltage issues.

The NERC Guideline explained the reliability concern stemming from interruption of non-synchronous generation as follows:

> "If there is widespread loss of resources during a single transmission fault, that loss may exceed the resource contingency criteria (RCC) of the interconnection and/or MSSC of the BA. Resource losses much greater than the RCC of the interconnection could trigger underfrequency load shedding (UFLS). As such, widespread losses of resources need to be avoided."[8]

The Large Generating Facility proposed by Solar PV is an inverter-based, non-synchronous generator. Therefore, the proposed generator presents the reliability risks that the NERC Guideline seeks to mitigate.

The LGIA properly addresses specific reliability concerns identified in the NERC Guideline, which is especially important to the EPE system due to its location within the Western Interconnection. In particular, the EPE system acts as a load pocket and operates its import levels

[8] NERC Guideline at 6.

under voltage determined nomograms. Generating facilities electrically connected to the EPE system have greater impacts on the EPE system than is true for systems more centrally located within the Western Interconnection.

EPE employs an under-voltage load-shedding program on its transmission system. If local voltage levels drop below certain levels following an event, load shedding is triggered to protect the EPE system. Preventing a drop in the amount of voltage-supporting Var injected during a system disturbance is essential to minimize the effect of such a disturbance. The contents of Appendix G of the LGIA reduce the likelihood that Solar PV's generating facility will be lost when the EPE transmission system experiences PV Interruption.

The Protest identifies three provisions of the LGIA, in particular, as lacking in specificity as to why they are necessary:[9]

- Two separate fault conditions without bounding requirements for both conditions (citing to Appendix G, Section A.i.1);
- Voltage support requirements that may not account for Solar PV's facility design (citing to Appendix G, Section A.ii); and
- The use of language, such as voltage studies on a "periodic basis," without greater specificity to allow for coordination between the Transmission Provider and the Interconnection Customer (citing to Appendix G, Section A.ii).

First, with respect to the absence of bounding requirements for the two fault conditions in Appendix G, A.i.1, the provisions addressing the fault conditions and acceptable performance are those implemented by the Commission. EPE's Appendix G, A.i.1 reflects the use of "non-synchronous generator" instead of "wind generator," but otherwise adopts the Commission's text.

Second, regarding Appendix G, Section A.ii and whether there is anything in Solar PV's facility design that makes the voltage support requirements unnecessary, the answer is no. Solar

[9] Protest at 6.

PV's Large Generating Facility is the very type of non-synchronous facility that the NERC Guideline targets. The electrical interconnection of this type of facility to the EPE transmission system makes the non-conforming provisions necessary, as EPE explains in the pages above.

Finally, with respect to reference to voltage studies being performed on "a periodic basis," EPE understands that this leaves room for some degree of flexibility on the timing of such studies. This is intentional. EPE would like to avoid the situation in which it would be required to conduct studies merely because it has held itself to a specific time interval in the LGIA. Further, EPE is in constant communication with its Reliability Coordinator ("RC"), and the RC will play a role in determining when future studies are to be conducted by EPE. The referenced language allows the flexibility to coordinate with the RC.

2. Allocation of Network Upgrade costs within the cluster on a pro rata basis.

For purposes of processing Solar PV's interconnection request, EPE undertook a cluster study as required under Section 4.2 of EPE's Large Generator Interconnection Procedures ("LGIP"). Much of the Protest presents an attack on how Network Upgrades within the cluster are allocated between the cluster participants. Solar PV contends that there should be no allocation of Network Upgrade costs within the cluster, and that EPE should be applying, instead, a cost causation test as if the interconnection requests were not clustered.[10] Alternatively, Solar PV requests that the Commission direct EPE to refund to Solar PV any costs associated with the other project in the cluster (i.e., Project CO100SB) in the event the project "is removed from the interconnection queue."[11] Finally, Solar PV inaccurately asserts that it is required to pay for two additional circuit breakers as Network Upgrades.[12]

[10] *Id.* at 7 and 8.

[11] *Id.* at 7.

[12] *Id.* at 7 and 8.

(a) Allocation of Network Upgrades on a pro rata basis is reasonable.

The allocation of Network Upgrades is done among the cluster participants pro rata, based on the MW size of each Large Generating Facility seeking interconnection service in the cluster. Solar PV is part of a group of interconnection requests that went through the interconnection study process in a single cluster. The cluster began with five participants, but at the close of the interconnection study process, only two participants remained. Solar PV's project is the larger of the two projects in the cluster. Solar PV's project is 130 MW, and Project CO100SB's project is 100 MW. Therefore, the pro rata allocation of Network Upgrade costs resulted in an approximate 56 percent allocation to Solar PV (230 total MW divided by Solar PV's 130 MW project = 56.52 percent cost responsibility). EPE's use of a pro rata MW allocation of Network Upgrades is a non-discriminatory basis for cost allocation within the cluster.[13]

(b) There is no basis in the LGIP for the refund requested by Solar PV.

There is no basis in the LGIP or elsewhere that would support the refund obligation Solar PV requests for queue withdrawals. Under the Commission's generator interconnection procedures, a generator with an interconnection agreement has rights to unilaterally order the suspension of work under its LGIA, and unilaterally terminate its LGIA, altogether.[14] Project CO100SB has ordered a suspension of work under its LGIA, and Solar PV has also submitted to EPE an advance notice that it is suspending its LGIA.[15] Whether either project is taken out of suspension and moves forward to commercial operation is uncertain at this time.

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[13] EPE first began using cluster studies after the Commission's issuance of an order in Docket No. ER09-1295-000. El Paso Electric Co., 128 FERC ¶ 61,155 at P 13 (2009) (with the Commission's express acknowledgement and approval of the allocation of "the costs of any network upgrades resulting from the cluster studies to the members of the cluster pro rata based on relative project size (in MWs)"). EPE filed to continue its cluster approach in Docket No. ER11-4459-000. See EPE's filing dated September 7, 2011 at note 15 and accompanying text, and the Commission's cluster approval order issued November 1, 2011. El Paso Electric Co., 137 FERC ¶ 61,101 (2011).

[14] *See* EPE LGIP at Sections 2.3.1 (on Interconnection Customer termination) and 5.16 (on Interconnection Customer suspension).

[15] www.epelectric.com/company/transmission/generator-interconnection (Click "EPE Active Generator Interconnection Queue").

If either cluster participant terminates, then to the extent any facilities are constructed, Article 2.4.3 of the LGIA governs and provides that "[w]ith respect to any portion of the Interconnection Facilities, and any other facilities already installed or constructed pursuant to the terms of this LGIA, Interconnection Customer shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities."[16]

(c) Solar PV inaccurately asserts that EPE is imposing costs of two circuit breakers.

Solar PV also contends that EPE embedded within the Network Upgrades the cost of five circuit breakers when only three circuit breakers are necessary to accommodate the interconnection of Solar PV's Large Generating Facility.[17] Therefore, Solar PV argues, the Commission should direct EPE to identify and remove from Solar PV's Network Upgrade cost estimate any costs associated with "accommodations for a future line or generator connection," and to revise the milestone security requirements in Appendix B consistent with any such revisions to the Network Upgrades list.[18]

In response, EPE points the Commission to Appendix C of the LGIA at footnote 12, at the location at which EPE identifies three 345 kV 3000A 40kA Gang Operated Breakers for the substation where Solar PV desires to interconnect its facility to the EPE system. Footnote 12 reads:

> In addition, EPE will be installing two (2) 3000A Vertical break type switches at the end of each bus to accommodate future expansion. *These two breakers are considered neither Interconnection Facilities nor Network Upgrades under this interconnection, and the Interconnection Customer under this LGIA is not responsible for paying for them*. (emphasis added)

[16] Of course, a Transmission Provider may, *at its sole option*, accept certain items procured by the Interconnection Customer, as provided in Section 2.4.2 of the LGIA ("Transmission Provider may, at its option, retain any portion of such materials, equipment, or facilities that Interconnection Customer chooses not to accept delivery of, in which case Transmission Provider shall be responsible for all costs associated with procuring such materials, equipment, or facilities").

[17] Protest at 7-8.

[18] *Id.* at 7.

Thus, the LGIA makes clear that the two breakers will not be the responsibility of Solar PV. Consequently, the cost of the two additional breakers is not embedded in Solar PV's costs and no change to the Network Upgrade costs or milestone security requirements is necessary.

3. The financial security amounts reflected in Appendix B of the LGIA properly account for Solar PV's desire to exercise its Option to Build.

Solar PV desires to build the transmission facility identified in the LGIA as the LA130S Substation, a Stand-Alone Network Upgrade, with limited exceptions, including protection and control facilities which fall outside the Stand-Alone Network Upgrade category.[19] The substation is estimated to cost a total of $9,259,000, of which Solar PV is allocated a $5,233,348 share.[20] The remaining $4,025,652 is allocated to the CO100SB. The total financial security to be collected from Solar PV under the LGIA is $13,547,435. This amount was derived as reflected in Table 1 below:

Table 1 - Total Financial Security to be collected from Solar PV

Total Cost Responsibility of Solar PV under the LGIA	$19,547,435[21]
LESS Solar PV's Network Upgrade Responsibility for the LA 130S Substation	- $5,233,348
LESS LA130S Interconnection Facilities Cost	- $3,610,000
PLUS limited items for which EPE is responsible, including protection, control, and communications.	+ $2,843,348
TOTAL	**$13,547,435**

As shown above, the LGIA properly reflects the financial security obligation of Solar PV. In particular, and in response to Solar PV's assertion, the financial security does not include costs

[19] See LGIA Appendix A at Section II.

[20] LGIA Appendix C, Table C-17.

[21] LGIA Appendix C, Table C-18.

for which Solar PV is responsible due to its election of the Option to Build the LA130S Substation.[22]

4. EPE disagrees with Solar PV's proposed milestones.

Solar PV presents to the Commission proposed milestones that it contends are "necessary to ensure ongoing and timely coordination between EPE and Solar PV during Solar PV's development, design, and construction of the LA130S 345 kV Substation, and to bring Solar PV's Large Generating Facility online as soon as is reasonably possible."[23] EPE disagrees with Solar PV's proposed milestones for several reasons:

1. EPE is not willing to allow Solar PV to play a governance role in the decision-making process within EPE with respect to the timing of outages;

2. EPE's LGIA contains adequate provisions for notifications between the parties (e.g., Article 15, including 15.1 and 15.4), information requirements (e.g., Article 24) and information access (e.g., Article 25), thus effectuating communication channels and coordination during the LGIA's term; and

3. Although Solar PV contends its proposed additions to the milestones are necessary to bring its generating facility online as soon as is reasonably possible, Solar PV has made it clear to EPE that it will not move forward immediately. To the contrary, Solar PV notified EPE of its advance suspension of the LGIA, avoiding any tender of financial security to EPE and ordering the stoppage of all work before it can begin.

III. CONCLUSION

WHEREFORE, EPE respectfully requests that the Commission accept this Answer, and accept the LGIA in the form presented to the Commission on July 23, 2021.

Respectfully submitted,

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[22] Protest at 9.

[23] *Id.* at 9.

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Dated: August 31, 2021

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have this day served the foregoing "Motion for Leave to Answer and Answer of El Paso Electric Company" on all persons designated on the official service list compiled by the Secretary in this Proceeding.

Dated at El Paso, Texas, this 31st day of August, 2021.

/s/ Matthew Loftus

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